

HOUSING JUSTICE

National Housing Law Project

Newsletter April 2015

HUD Releases Proposed VAWA 2013 Rule

On April 1, 2015, the Department of Housing and Urban Development (HUD) published a proposed rule implementing the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 features expanded protections for survivors of domestic violence, dating violence, sexual assault, and stalking accessing and maintaining federally subsidized housing, including HUD housing programs. (For a summary of VAWA 2013's key housing protections, see NHLP, Domestic Violence and Housing Newsletter, *VAWA 2013 Continues Vital Housing Protections for Survivors and Provides New Safeguards* (April-May 2013), <http://nhlp.org/files/April-May%202013%20Newsletter%205-15-13.pdf>) HUD's proposed rule amends a series of HUD regulations that govern the HUD programs covered by VAWA 2013.

This publication initiates a 60-day public comment period. Comments can be submitted via www.regulations.gov on or before June 1, 2015. To access the proposed rule, go to <http://www.gpo.gov/fdsys/pkg/FR-2015-04-01/pdf/2015-06781.pdf>

NHLP is conducting a webinar covering the proposed rule on May 21, 2015. To register for the webinar, go to: <https://attendee.gotowebinar.com/register/1480030977495446274> ▪

HUD Issues Notices on Equal Access Rule

Lesbian, gay, bisexual, and transgender (LGBT) survivors often face heightened barriers to escaping abuse and obtaining safe, decent, and affordable housing. Earlier this year, the Department of Housing and Urban Development (HUD) issued two notices concerning the implementation of the agency's "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity" final rule (Equal Access Rule), published on February 3, 2012. The Equal Access Rule prohibits discrimination on the basis of gender identity, sexual orientation, and marital status in HUD-assisted or HUD-insured housing programs. Three years later, HUD's Office of Housing, which administers the agency's multifamily programs and oversees the Federal Housing Administration (FHA), released a notice to program

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participants concerning program eligibility under the Equal Access Rule. This notice reiterates the Equal Access Rule's requirements, highlighting changes to HUD's general regulations and FHA regulations. The notice reminds participants that housing assisted by HUD or subject to an FHA mortgage must be made available to all persons regardless of actual or perceived sexual orientation, gender identity, or marital status. Additionally, owners and managers of HUD-assisted housing and lenders of FHA mortgages cannot inquire about an applicant's sexual orientation or gender identity in determining eligibility for a program or mortgage. Owners and managers may ask about sex, however, to determine the number of bedrooms to which a household may be entitled. Finally, the notice explains that the Equal Access Rule does not create any additional protected classes under the federal Fair Housing Act or other civil rights law. Although the Fair Housing Act does not expressly prohibit housing discrimination based on sexual orientation, gender identity, or marital status, the notice advises that the Act may prohibit housing discrimination against a lesbian, gay, bisexual, or transgender person under a gender discrimination theory.

Shortly after the Office of Housing issued its notice, HUD's Office of Community Planning and Development released a notice concerning the appropriate placement of transgender individuals in single-sex emergency shelters and other facilities. Shelters receiving HUD funding are subject to the Equal Access Rule's nondiscrimination requirements, but temporary emergency shel-

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Notice of Program Eligibility for HUD Assisted and Insured Housing Programs for All People Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule, H 2015-01 (Feb. 6, 2015), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=15-01hsgn.pdf>

Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities, CPD-15-02 (Feb. 20, 2015), available at <https://www.hudexchange.info/resources/documents/Notice-CPD-15-02-Appropriate-Placement-for-Transgender-Persons-in-Single-Sex-Emergency-Shelters-and-Other-Facilities.pdf>

Program Eligibility Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule, Notice PIH 2014-20 (HA) (Aug. 20, 2014), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2014-20.pdf>

Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, 77 Fed. Reg. 5,662-76 (Feb. 3, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-02-03/pdf/2012-2343.pdf>

ters with shared bathrooms or sleeping areas may still inquire about a person's sex. This notice provides guidance on how single-sex shelters—specifically those receiving Emergency Solutions Grants (ESG), Continuum of Care (CoC), or Housing Opportunities for Persons with AIDS (HOPWA) funds—can

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best serve transgender persons. Specifically, shelter providers may not ask questions or seek information concerning an individual's anatomy or medical history. In addition, a provider cannot preclude someone's eligibility for an emergency shelter or other facility because the client's appearance or behavior does not conform to gender stereotypes. The guidance further directs shelter staff to assign individuals to housing or services in a manner consistent with their gender identity and/or the individual's own concerns about their personal health and safety. The notice also instructs shelters to "take reasonable steps" to address safety or privacy concerns expressed by transgender clients. Recipients may use ESG and HOPWA funds to renovate an emergency shelter to maximize privacy and safety. ▀

Military Sexual Trauma: A Barrier to Housing for Female Veterans

As the U.S. military completes its withdrawal from the conflicts in Iraq and Afghanistan, large numbers of veterans are returning to their communities and resuming civilian life. More than 200,000 women served in these campaigns. These women not only faced all of the typical challenges of military service, but also experienced hardships posed by working within a male-dominated institution. One of the most serious challenges facing a significant number of female veterans is military sexual trauma (MST), which includes sexual harassment and sexual assault occurring during one's military service. The U.S. Department of

Veterans Affairs (VA) defines MST as "sexual harassment that is threatening in character or physical assault of a sexual nature that occurred while the victim was in the military, regardless of geographic location of the trauma, gender of victim, or the relationship to the perpetrator." Women who experience MST may be more likely to struggle with finding or maintaining housing after their service because of their psychological responses to the trauma and because of the persistent lack of veterans' services designed for this population.

Housing and service providers should be aware that many female veterans may have experienced MST during their service, and that this trauma may interfere with their ability to maintain stable housing. In fact, female veterans generally are four times more likely to be homeless than their civilian peers. Because women are less likely to self-identify as veterans, providers should ask their clients about any military service and related trauma to determine their eligibility for veterans' services. This article explores some of the ways in which MST may interfere with women veterans' ability to access and maintain stable housing.

Background

High Incidence of Trauma Among Female Veterans

Female veterans are more likely than their non-veteran counterparts to experience trauma. According to a report issued by the Women's Bureau of the U.S. Department of Labor, between 81 and 93 percent of female veterans have experienced some

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form of trauma during their lives, either before enlisting or during their military service. The same report noted that throughout their lives, female veterans experience traumas such as sexual abuse during childhood, domestic violence, as well as physical and sexual assault. A U.S. Department of Defense study cited by the Women's Bureau found that the rate of sexual assault was twice as high for female veterans compared to civilian women.

For many female veterans, these traumas occur during military service. Due to underreporting of assaults, particularly in the military setting where attackers are often colleagues or superiors, precise statistics for MST are difficult to calculate. However, researchers at the Women's Bureau of the Department of Labor estimated that 20 to 48 percent of female veterans have experienced sexual assault. A report by the Iraq and Afghanistan Veterans of America noted that sexual assaults are even reported within combat zones.

Military Sexual Trauma, Mental Illness, and Housing

Mental illness is a common barrier to housing and a frequent cause of homelessness. Research has shown that this holds true within the military community: the National Coalition for Homeless Veterans reported that nearly 80 percent of homeless veterans have been diagnosed with a mental health disorder or drug or alcohol abuse. Post-traumatic stress disorder (PTSD), one of the most common forms of mental illness among returning veterans, can make it

Resources

Women's Bureau, U.S. Department of Labor, *Trauma-Informed Care for Women Veterans Experiencing Homelessness: A Guide for Service Providers*, available at: <http://www.dol.gov/wb/trauma/WBTraumaGuide2011.pdf>

Iraq and Afghanistan Veterans of America, *Women Warriors: Supporting She 'Who Has Borne the Battle'* (Oct. 2009), available at: http://media.iava.org/IAVA_WomensReport_2009.pdf

National Coalition for Homeless Veterans, *Homeless Female Veterans*, Fact Sheet, available at: <http://www.nchv.org/images/uploads/HFV%20paper.pdf>

more difficult to maintain housing stability. MST in particular is associated with high rates of PTSD and other mental health issues. The National Coalition for Homeless Veterans noted that according to one study, female veterans who have experienced MST are nine times more likely to develop PTSD. Such PTSD can interfere with an MST survivor's ability to keep her job, leading to an increased likelihood of homelessness. Women who have experienced MST may also develop other adaptive responses that hinder their access to housing. According to the Women's Bureau, survivors of trauma may seek to protect themselves by withdrawing from others or dissociating, becoming aggressive, or engaging in self-harm or substance abuse. All of these responses may interfere with the ability of a trauma survivor to remain employed and housed, to suc-

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cessfully access housing programs, and to satisfy program requirements.

Female Veterans Lack Access to Veterans' Services

Upon their return from active service, many female veterans encounter difficulty in accessing services tailored to their needs. According to the Women's Bureau, female veterans experiencing homelessness told researchers that there were few services available for women in their position. Unsurprisingly, female veterans reported to researchers that they were unlikely to participate in a program if they felt it targeted male veterans. In fact, female veterans told the researchers that they did not self-identify as veterans; they instead focused on other experiences and identities rather than veteran status (such as mothers, wives, or domestic violence survivors). This lack of self-identification as a veteran becomes an additional barrier to accessing veterans' services. Further, even when female veterans did seek assistance from veterans' programs, they were often unsure of their eligibility and unaware of certain services. Service providers were often equally confused about services available for female veterans or MST survivors.

These factors may help explain why female veterans have chosen the VA as a health care provider at lower rates than their male counterparts. Furthermore, VA facilities have often lacked the equipment and space to provide gender-specific care; female veterans have reported that these facilities are too centered on the needs of

male veterans. That said, the VA has engaged in efforts to address the lack of health care services for women veterans, and since 1999, the VA has screened veterans who seek medical care for MST. However, barriers to access for female veterans remain.

Due to these past and present barriers, female veterans do not receive the health care and other support that could help them recover from trauma. Without treatment for MST and other mental health issues (such as PTSD) that often accompany trauma, many women will find it harder to maintain employment or access financial supports that would allow them to maintain stable housing.

Veterans' Housing Programs Fail to Meet the Needs of Female Veterans, Including MST Survivors

Programs designed to help service members find and maintain post-military housing frequently lack services tailored to female veterans' specific needs—including female MST survivors. Because most veterans are male, housing programs specifically designed for women are extremely scarce, and the VA has acknowledged a lack of sufficient housing programs for female veterans. According to an Iraq and Afghanistan Veterans of America report, only 60 percent of VA homeless shelters accept women; only five percent offer separate housing for women or programs specifically designed for women; and approximately 12 female-only housing facilities exist nationwide. Furthermore, certain veteran programs are incapable of offering services to the children of veterans, or place restrictions on the number and ag-

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es of the children that may participate. Child care services for veterans are also rare, limiting the ability of veterans with children to remain in the workforce.

Additionally, female veterans have voiced concerns about the safety and privacy of these housing programs. Transitional housing programs for veterans often lack sufficient security procedures to make female veterans feel comfortable using them, particularly when the programs do not offer gender-segregated housing.

For female MST survivors, the effects of trauma compound the barriers to accessing services. Many of these women may be reluctant to utilize veterans' housing services that serve male veterans because of the risks of additional sexual trauma or forced interactions with male veterans. Female veterans who have experienced trauma likely have limited options for housing (especially if they also have childcare responsibilities), struggle to find lasting employment, or experience mental health issues common among veterans. Thus, institutional barriers to services can be particularly difficult to overcome for this population.

Conclusion

As the proportion of women in the armed forces increases and the phenomenon of MST becomes better understood, additional services for female veterans will be needed. The VA and other organizations have made efforts to expand the services available to female veterans, as well as the funding for programs targeting female veterans and veterans with children. For example, the VA

and the Department of Housing and Urban Development (HUD) have collaborated to develop the HUD-VA Supportive Housing (HUD-VASH) Program, which provides veterans with housing vouchers. The HUD-VASH program prioritizes disabled veterans with dependent children.

Still, many female veterans leave the military having experienced significant traumas and may not be initially aware of or interested in veterans' services. Providers of housing and other support services should consider asking questions regarding military service and trauma as part of intake to determine their clients' eligibility for any services that might be available to them. ■

For technical assistance or requests for trainings or materials, please contact:

Karlo Ng, kng@nhlp.org
 National Housing Law Project
 703 Market Street Ste. 2000
 San Francisco, CA 94103
 Phone: (415) 546-7000, x. 3117
www.nhlp.org/OVWgrantees

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